IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 8TH AUGUST 2007 / 17TH SRAVANA 1929

Crl.MC.No. 2535 of 2007()

CC.1242/1997 of JUDL.MAGISTRATE OF FIRST CLASS-I, MUVATTUPUZHA
C.C.NO.250/03 OF THE JFCM COURT, KOTHAMANGALAM.

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PETITIONER: ACCUSED:

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1. KURIAKOSE, S/O. MATHEW,
IDATHIL VEEDU, KEERAMPARA, KOTHAMANGALAM.

2. PAULOSE, S/O. UTHUPPU,
VALIYATHOTTATHIL HOUSE, KEERAMPARA,
KOTHAMANGALAM.

3. BABU, S/O. PYLE,
MALIYIL VEEDU, KEERAMPARA, KOTHAMANGALAM.

BY ADV. SRI.B.RAMAN PILLAI
SRI.R.ANIL

RESPONDENTS: COMPLAINANT & STATE:

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1. A.P. ELDHO, S/O. A.P. PAULOSE,
APPOCKAL HOUSE, KEERAMPARA, KOTHAMANGALAM
(PROFESSOR (RETD), DEPT. OF ENGLISH,M.A.COLLEGE,
KOTHAMANGALAM).

2. STATE OF KERALA,
REP. BY THE PUBLIC PROSECUTOR,HIGH COURT OF KERALA
ERNAKULAM.

BY P.P. SRI. M.S.BREEZ.

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 08/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

Crl.M.C. No. 2535 OF 2007

Dated this the 8th day of August, 2007

ORDER

The petitioners are accused in a prosecution under Sec.500 of the IPC initiated by the 1st respondent herein. Proceedings were initiated as early as in 1997. That prosecution is even now pending. It has been re-numbered and is pending before the learned Judicial Magistrate of the First Class, Kothamangalam, as C.C.No.250/03. The petitioners have now come to this Court with a prayer that the proceedings before the learned Magistrate may now be quashed invoking the powers under Sec.482 of the Cr.P.C. inasmuch as continuance of the prosecution negates their right for speedy trial.

2. Why is the matter pending and what stage is the matter now? The learned counsel for the petitioners submits that the prosecution evidence has been closed by the learned

Magistrate. It was so closed notwithstanding the insistence of the 1st respondent that a witness cited by him as C.W.7 must be examined in court. The learned Magistrate did not accept the said request and closed the prosecution evidence and directed that the proceedings must now proceed to the next stage. At that stage the complainant, it is submitted, had come to this Court and had filed Crl.M.C.No.3758/05. In that Crl.M.C. this Court had directed that there be a stay of the of all further proceedings. Accordingly, from 2005 onwards the matter is pending only because of the oder of stay issued by this Court in the said Crl.M.C. I would certainly have expected the petitioners to move the Bench concerned for an early disposal of the proceedings pending as Crl.M.C.No.3758/05. Obviously and evidently, the non-termination of the proceedings is attributable only to such interlocutory order passed by this Court. Without and before moving this Court for an early disposal of the said Crl.M.C. I do not find any merit at all in this application for quashing of the proceedings. A party who does not seek early disposal of the proceedings in which stay is granted cannot simultaneously claim advantage or benefit by the continuation of the proceedings on the basis of such order of stay passed by this Court in the proceedings in which he is a party. I am afraid, the

petitioners have no valid reasons to support the claim for premature termination of the proceedings.

3. I would have posted Crl.M.C.No.3758/05 straightaway for hearing and disposal; but it is seen that as per the roster, the jurisdiction to deal with that case is with Court No.5B. The petitioners must certainly move that Court for expeditious further orders in the matter. I do not, in these circumstances, find any merit in the prayer made in this Crl.M.C. It is accordingly, dismissed; but with the above observations.

Sd/-

(R. BASANT, JUDGE)

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//true copy//

P.S. to Judge